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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,270	09/16/2003	David Michael Edwards	27735-13	1443

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EXAMINER

PEDDER, DENNIS H

ART UNIT PAPER NUMBER

3612

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,270

Applicant(s)

EDWARDS, DAVID MICHAEL

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/5/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



**DETAILED ACTION**

***Election/Restrictions***

1. The election is moot at this time.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "may be biased" is indefinite for determination of infringement. There can be no compressive forces from the bearing member unless biasing is present. Further in this regard note claim 13 where a cross brace is fastened with respect the securement structure. No fastening can be present without a fastener. This rejection is repeated, however, to avoid undue delay in prosecution, an unresponsive letter has not been sent as the correction is self-evident: --is biased by a fastener-- is the logical alternative.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-4, 6-10, 12, 14, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson in view of Wagner.

Richardson has the object, a vehicle bed or liner, an article, a vehicle, a securement structure at 22, figure 3, surrounding the fastener or bolt that applicant neglected to claim, the securement structure, of plastic material, has a bearing surface at the bolt head and has a creep rate greater than the creep rate of the mounting structure "F", which has a lesser creep rate, being metal. Richardson simply bolts the bed or liner to the frame which would entail the problem of plastic creep discussed by Wagner and prevented by Wagner in using a bearing member 12 with first portion 28 bearing against the plastic structure 40 and second portion at 34 the latter against the analogous mounting structure 44 of metal. Wagner limits compressive forces by this method as does applicant who discusses the same problem of creep. It would have been obvious to one of ordinary skill to provide in Richardson a fastening system as taught by Wagner for the above reason.

As to claim 2, the object is part or element of the loading area of the vehicle.

As to claim 3, the object liner of Richardson serves as a bed.

As to claim 4, the object is a united part with the loading area. "Integral" is deemed to mean --made of parts that together constitute a whole--Random House College Dictionary, 1980.

As to claims 6 and 7, part 34 is a second planar surface at tip and part 28 comprises a first planar surface at tip 28.

As to claim 8, a metal washer projecting flange is resilient.

As to claims 9 and 10, see figure 1 of Wagner, self-evident.

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6. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson in view of Wagner as applied to claim 1 above, and further in view of Semple et al.

It would have been obvious to one of ordinary skill to provide in the references above cross braces 30, etc. as taught by Semple et al. in order to strengthen the underbody. As to “fastened”, all parts of a vehicle are fastened together.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson in view of Wagner as applied to claim 1 above, and further in view of Johnson, US 6,059,503.

It would have been obvious to one of ordinary skill to provide in the references above a resilient washer 38 as taught by Johnson in order to avoid damage to the plastic substructure.

***Allowable Subject Matter***

8. Claims 11 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 5/5/2005 have been fully considered but they are not persuasive. Please see the detailed rejection above fully responsive to applicant's assertion of lack of a mounting structure in the cited references.

Rule 116 applies henceforth.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

5/13/05

DHP

5/13/2005